

## GENERAL CONDITIONS

*Version 3.0, issued 2010-12-21*

### **1. Preamble**

- 1.1. These General Conditions of Supply (the "Agreement") constitute an integral part of all offers and supply agreements entered into by Kominox AB, Kominox AS, Kominox OÜ or Kominox International AB (the "Supplier") and a purchaser of the Product (the "Purchaser") regarding the supply of stainless steel products (the "Product").
- 1.2. Any deviations from this Agreement shall be in writing and signed by both parties in order to be valid.

### **2. Offer and acceptance**

- 2.1. Unless otherwise expressly stated, any offer from the Supplier to the Purchaser regarding the supply of Products shall be valid for a maximum period of three (3) days from the date of the offer.
- 2.2. If the Purchaser wishes to accept the offer, a written acceptance of the offer (the "Purchase Order") shall be sent within the time of validity of the offer to the Supplier, who shall confirm the Purchase Order in writing (the "Order Confirmation"). A Purchase Order shall be deemed to include an acceptance of this Agreement. An order becomes binding on the Supplier when the Supplier has confirmed the Purchase Order in writing in an Order Confirmation in accordance with this Clause 2.2.
- 2.3. Orders accepted in an Order Confirmation in accordance with Clause 2.2 cannot be cancelled without the written consent of the Supplier and then only upon terms that would indemnify the Supplier against all loss and damages in relation to that cancelled order. In case the Purchaser cancels an order regarding special units made to a special order, the Purchaser will be required to pay the whole of the cost involved in the work up to the date of cancellation.

### **3. Time and terms of delivery**

- 3.1. Unless otherwise expressly stated, Incoterms 2010 apply.
- 3.2. The Supplier shall do its utmost to meet the time of delivery stated in the Order Confirmation (the "Delivery Date"). However, dates or periods for dispatch or delivery of the Products are approximate and shall not be binding, given the complexity of the production process.
- 3.3. Should the delivery be delayed by more than eight weeks, the Purchaser shall be entitled to cancel the order by giving written notice to the Supplier
- 3.4. Cancellation of the order is the only remedy available to the Purchaser in case of delay on the part of the Supplier. All other claims against the Supplier based on such delay shall be excluded.
- 3.5. If the Supplier is responsible for the delivery, then the Product shall be delivered without delay as soon as it is available.
- 3.6. If the Purchaser is responsible for the collection of the Product from the Supplier's warehouse then the Supplier shall issue a Notice of Readiness for Shipment (NRS) as soon as the Product is available. The Purchaser is obliged to collect the Product within 7 days from the date of the NRS. Should the Purchaser fail to collect the Product within said period of time, the Supplier shall be entitled to add 1% to the order value for each week of delay.
- 3.7. Should the Purchaser fail to collect the Product within one month from the date of the NRS, the Supplier shall have the right to cancel the Purchase Order and sell the Product to another purchaser. The Supplier shall be entitled to compensation for any loss or damage he has suffered by reason of the Purchaser's failure to collect the Product.
- 3.8. Unless the Purchaser's failure to accept delivery is due to any such circumstances as mentioned in Clause 8 (Force Majeure), the Supplier may by notice in writing require the Purchaser to accept delivery within a final period. If, for any reason for which the Supplier is not responsible, the Purchaser fails to accept delivery within such period, the Supplier may by notice in writing terminate the contract in whole or in part. The Supplier shall then be entitled to compensation for the loss he has suffered by reason of the Purchaser's default.

### **4. Payment**

- 4.1. Full payment for the Product shall be made within the time period and in the manner specified in the Order Confirmation. Partial payments are not allowed. The Purchaser shall bear all expenses arising out of the

payment system agreed. If a documentary credit is issued, it shall be governed by the ICC Uniform Customs and Practice for Documentary Credits.

- 4.2. All deliveries shall be subject to the approval of the Supplier's Credit Department.
- 4.3. If the Purchaser,
  - a) fails to comply with its payment or other obligations under any order with the Supplier; or
  - b) is under bankruptcy, suspension of payments, winding up, liquidation or any kind of insolvency; or
  - c) is unable to pay its debts; or
  - d) any execution is levied upon the property or assets of the Purchaser,then the Supplier is entitled to compel performance of or to cancel the Order.
- 4.4. If the Supplier has fair reasons to suspect that the Purchaser will not be able to perform its payment or other obligations under the Order or any other Order with the Supplier, the Supplier may at any time suspend the performance of its obligations under the Order, unless the Purchaser immediately pays the entire purchase price under the Order and all outstanding payments under any other order with the Supplier or furnishes the Supplier with a bank guarantee or other security for the same amount acceptable to the Supplier. The Supplier shall immediately notify the Purchaser of any such suspension and state therein a reasonable final time limit for the Purchaser to make payments/furnish security. If the Purchaser fails to make such arrangements within the final time, the Supplier will have the same rights as in p. 4.3 above.
- 4.5. If the Supplier has granted credit to the Purchaser, and the Purchaser is responsible for collecting the goods on FCA terms, then the time of payment shall start to count 7 days after the date of the NRS.
- 4.6. If the Purchaser has not paid on time, then the Purchaser shall pay overdue interest on the amount outstanding at a rate of 1.5% per month (18% p.a.) from the due date to the payment date. In addition the Purchaser shall also indemnify the Supplier for any loss, liability or expense arising out of the Purchaser's lack of payment.
- 4.7. If the Purchaser has paid a deposit to the Supplier for the Order, and thereafter cancels the Order before shipment for any other reason than delay as in p. 3.4 above, then the Supplier is entitled to keep the deposit as compensation for any loss or damage he has suffered by reason of the cancellation.
- 4.8. If the amount of a deposit paid as in p. 4.7 above does not suffice to cover the loss or damage suffered by the Supplier as a result of the Purchaser's cancellation of the Order, then the Supplier may be entitled to additional compensation in excess of the deposit.
- 4.9. If the Purchaser cancelled the Order due to a delay as in p. 3.4 above, then pp. 4.7 and 4.8 do not apply and the Supplier shall be obliged to return the deposit.

## **5. Loading**

- 5.1. If, according to the delivery terms of the Order, the Supplier is responsible for loading the Product on a truck provided by the Purchaser (FCA or EXW), then loading is subject to separate Loading Instructions, which are available for downloading on the Supplier's website, or by mail from the Supplier upon demand.

## **6. Quantity**

- 6.1. Unless otherwise expressly stated, the Supplier shall have the right to deliver up to 10 % more or less than the agreed quantity.
- 6.2. If the quantity is specified in meters or pieces, then the weight stated by the Supplier shall be indicative only.
- 6.3. If the quantity is specified in kilos, then the weight stated by the Supplier shall be deemed correct, unless proven incorrect by neutral surveyor.

## **7. Liability for Defects**

- 7.1. The Supplier shall remedy (delivery of new products) any defect or nonconformity resulting from faulty design, materials or workmanship.
- 7.2. The Supplier's liability is limited to defects which appear within a period of one (1) year from the Delivery Date. If the daily use of the Product exceeds that which is agreed, this period shall be reduced proportionally.

- 7.3. The Purchaser shall without undue delay notify the Supplier in writing of any defect which appears. Such notice shall under no circumstances be given later than two weeks after the expiry of the period given in clause 6.2 above. The notice shall contain a description of the defect and a reference to order number, heat number, etc.
- 7.4. If the Purchaser fails to notify the Supplier in writing of a defect within the time limits set forth in the above Clauses, he loses his right to have the defect remedied. Where the defect is such that it may cause damage, the Purchaser shall immediately inform the Supplier in writing. The Purchaser shall bear the risk of damage resulting from his failure so to notify.
- 7.5. If the Purchaser has given notice in accordance with Clause 6.1 and no defect is found for which the Supplier is liable, the Supplier shall be entitled to compensation for the costs he has incurred as a result of the notice.
- 7.6. The Purchaser shall at his own expense arrange for any dismantling and reassembly of equipment other than the Product, to the extent that this is necessary to remedy the defect.
- 7.7. The Supplier is not liable for defects arising out of materials provided, or a design stipulated or specified by the Purchaser. Further, the Supplier is liable only for defects which appear under the conditions of operation provided for in the Purchaser Order and Order Confirmation and under proper use of the Product.
- 7.8. The Supplier's liability does not cover defects which are caused by faulty maintenance, incorrect erection or faulty repair by the Purchaser, or by alterations carried out without the Supplier's written consent. The Supplier's liability does not cover normal wear and tear or deterioration.
- 7.9. Notwithstanding anything to the contrary in this Agreement, Purchase Order or Order Confirmation, applicable law or otherwise, the liability of the Supplier with respect to any and all claims arising out of the performance or non-performance of obligations under the contract shall not exceed in the aggregate the base price in the respective Purchase Order or Order Confirmation and shall in no event include damages for loss of profit, loss of revenues, loss of use, loss of production, cost of capital, costs of substitute equipment, facilities or services, downtime costs, delays and claims of customers of purchaser or costs connected with interruption of operation, loss of anticipated savings or for any special, indirect or consequential damage, loss of any nature whatsoever.
- 7.10. This limitation of liability Clause shall prevail over any conflicting or inconsistent provisions contained in any of the documents comprising this Agreement, except to the extent such conflicting or inconsistent provisions further restrict the Supplier's liability.

## **8. Retention of title**

- 8.1. Until the Purchaser has made full payment for the goods delivered, and until all other debts due from the Purchaser to the Supplier are fully paid, the Supplier retains the title to the goods. Until title passes, the Supplier has the right to recover any goods in the Purchaser's possession or control to which it holds the title and the Supplier is hereby given the right to enter any land or building where the goods are stored to collect such goods. If the Purchaser processes or combines the unpaid goods into/or to form part of a new object, the Supplier is granted title to the new object in proportion to the value of the unpaid goods in the new object until such time as it has received full payment for the original goods.
- 8.2. If the Purchaser sells any unpaid goods or new object, the Purchaser hereby assigns a proportion of its claim on any third party equivalent to the debt for the unpaid goods/new object sold.
- 8.3. Each statement above shall have effect as a separate clause and accordingly in the event of any of them being unenforceable for any reason the others shall remain in full force and effect.

## **9. Force majeure**

- 9.1. Should any circumstance arise such as war, fire, labour disputes, trade disputes, refusal to grant licenses or other circumstances beyond the control of the parties, then neither party shall be liable for delay in performing or failure to perform its obligations, with the exception for due payment. Such delay shall not be considered a breach of this agreement and the time for performance shall be extended by a period equivalent to that during which performance is so prevented.
- 9.2. If such a delay or failure persists for more than three months, either party shall be entitled to cancel this agreement to the extent of goods not yet delivered to the Buyer. In the event of such a cancellation, neither party will be entitled to any compensation, but any prepayment for goods not delivered shall be refunded.

## **10. Governing law**

- 10.1. This agreement shall be governed by the law of the Kingdom of Sweden

**11. Disputes**

- 11.1. Any dispute, controversy or claim arising out of or in connection with this agreement, or the breach, cancellation or invalidity thereof, shall be settled by arbitration at the Arbitration Institute of the Stockholm Chamber of Commerce (the SCC Institute). The place of arbitration shall be Gothenburg, Sweden, and English shall be the language used.
- 11.2. Alternatively, the Supplier shall in its sole discretion be entitled to choose to have recourse to competent courts in and laws of the Buyer's country for purposes of collecting mature debts of the Buyer.